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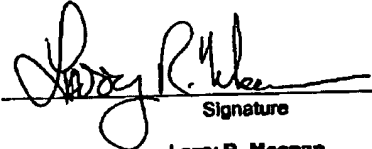
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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) K-2026	
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on <u>November 7, 2006</u>		First Named Inventor Thomas J. Long, II et al.	
Signature _____		Art Unit 3722	Examiner Willmon Fridie Jr.
Typed or printed name <u>Larry R. Meenan</u>			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>33,423</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <u>Larry R. Meenan</u> Typed or printed name <u>(724) 539-5485</u> Telephone number <u>November 7 2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			

☒ \*Total of 2 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Appl. No. 10/673,306  
Remarks Accompanying a Pre-Appeal Brief Request for Review  
Attorney Docket K-2026

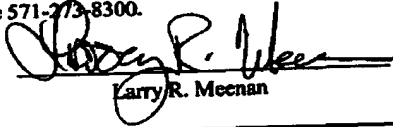
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Date: November 7, 2006

  
Larry R. Meenan

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:  
Thomas J. Long II et al.

Serial No. 10/673,306

Filed: September 29, 2003

For: ROTARY CUTTING TOOL HAVING  
IRREGULAR INSERT ORIENTATION )

) Group Art Unit 3722  
) Confirmation No. 1515  
)  
) Examiner Willmon Fridie Jr.  
)  
)  
) Attorney Docket K-2026

November 7, 2006

Mail Stop AF  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

Pursuant to the Pre-Appeal Brief Request for Review filed herewith and in  
response to the Final Rejection of August 11, 2006, Applicants submit the following:

**Remarks/Arguments beginning on page 2 of this paper.**

Appl. No. 10/673,306  
Remarks Accompanying a Pre-Appeal Brief Request for Review  
Attorney Docket K-2026

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### **REMARKS**

Pursuant to the Pre-Appeal Brief Request for Review submitted herewith and in accordance with the Requirements set out in the Official Gazette of 12 July 2005, the Applicants present the following reasons for seeking review:

#### **Omission of an Element Necessary to Establish a *Prima Facie* Rejection:**

Applicants respectfully submit that the Examiner's Final Rejection fails to establish how the prior art references teach or suggest all the claim limitations under 35 U.S.C. § 103(a). The references offered by the Examiner do not teach or suggest the limitation that appears in claim 1, that "the angular spacing of the cutting inserts within at least one of the rows varies within the row" or the limitation that appears in claim 11, that "the angular spacing of the cutting inserts within the rows varies within the first row, and the angular spacing of the cutting inserts within the second row varies within the second row and varies from the angular spacing of the cutting inserts within the first row." The Examiner relies on US Pat. No. 4,302,135 to Lillie to show variable angular spacing. The Examiner submits "that Lillie discloses that the physical relationships may be varied as deemed necessary". However, the physical relationship of variable angular spacing is not disclosed. Because a claimed limitation is not taught or suggested in any of the prior art references, a prima facie case of obviousness has not been shown. Please see Applicants' submissions of May 24, 2006, at pages 2-3, and December 16, 2004, at pages 7-8.

Moreover, Applicants respectfully submit that Lillie lacks motivation to vary angular spacing. An object of variable angular spacing is to combat vibrational harmonics. Lillie does not address this issue and therefore would not suggest or motivate a person of reasonable skill in the art to make the variation. This line of reasoning also supports Applicants' contention that angular spacing of cutting inserts is more than a mere rearrangement of parts. Varied angular spacing of cutting inserts goes beyond a mere rearrangement of parts because operation of the drill is modified thereby. Since variable angular spacing of the cutting inserts is not shown in the reference and the reference does not provide any suggestion or motivation to make the claimed limitation, a prima facie case of obviousness has not been made.

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In view of the foregoing remarks and with reference to the remarks included in the referenced submissions, it is believed that the application is in condition for allowance. Accordingly, a Notice Of Allowance is respectfully requested.

Respectfully submitted,



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Attorney for Applicants  
Reg. No. 33,423  
Date: November 7, 2006

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